

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BYRON GLEN MIDKIFF, JR.,

CASE NO. 3:24-cv-05550-LK

Plaintiff,

ORDER DENYING MOTION FOR
RELIEF FROM JUDGMENT AND
MOTION FOR ORDER TO SHOW
CAUSE

JASON BENNETT,

Defendant.

This matter comes before the Court on Petitioner Byron Glen Midkiff Jr.’s Motion for Relief from Judgment, Dkt. No. 42, and Motion for Order to Show Cause, Dkt. No. 43. In the former, Mr. Midkiff requests that the Court vacate its October 15, 2024 Order Adopting Report and Recommendation pursuant to Federal Rule of Civil Procedure 60(b)(4). Dkt. No. 42 at 1–2. In the latter, he requests that the Court “issue an order directing Respondent’s compliance with Habeas Rule 4, by filing an answer within a time determined by this Court.” Dkt. No. 43 at 1.

Mr. Midkiff's Rule 60(b) motion asserts that the Court improperly considered his federal habeas petition under 28 U.S.C. § 2254 instead of 28 U.S.C. § 2241. Dkt. No. 42 at 2. This motion

1 repeats arguments Mr. Bennett already repeatedly made (including in a prior 60(b) motion) and
2 the Court already repeatedly rejected. *See* Dkt. No. 18 at 2, 4–5.

3 Accordingly, Mr. Midkiff's Rule 60(b) motion is DENIED and his Motion for Order to
4 Show Cause is DENIED as moot. The Court further notes that Mr. Midkiff has now filed 17
5 meritless and/or frivolous motions for relief from judgment. Dkt. Nos. 8, 14, 15, 19, 20, 21, 21-1,
6 21-2, 25, 25-1, 25-2, 25-3, 31, 31-1, 31-2, 31-3, 42. “Federal courts can regulate the activities of
7 abusive litigants by imposing carefully tailored restrictions under appropriate circumstances,” and
8 frivolous or harassing filings can result in restricting a litigant’s access to the courts pursuant to
9 the All Writs Act, 28 U.S.C. § 1651(a), after the litigant is provided notice and an opportunity to
10 be heard. *Ringgold-Lockhart v. Cnty. of Los Angeles*, 761 F.3d 1057, 1061–62 (9th Cir. 2014)
11 (citation modified). Should Mr. Midkiff file additional meritless and/or frivolous motions, the
12 Court may impose such restrictions.

13 Dated this 7th day of July, 2025.

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16 Lauren King
17 United States District Judge
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